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Attorney Docket .

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of

Registration No.: 3143997
For the mark: www.east13.com
Date registered: September 19, 2006

Registration No.: 3147241
For the mark: east13
Date registered: September 26, 2006

Registration No.: 3158549
For the mark: East Thirteen
Date registered: October 17, 2006

76/632,663

LIVE VENTURES INC.

PETITIONER,

V.

SAROJ INTERNATIONAL, INC.

REGISTRANT.

CANCELLATION No. 92047661

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

**PETITIONER'S REPLY IN SUPPORT OF
SECOND MOTION FOR SANCTIONS.**



02-03-2009

Petitioner Live Ventures Inc. ("Petitioner" or "Live Ventures") hereby submits this reply in support of its second motion moves for discovery sanctions against registrant Saroj International, Inc. ("Registrant" or "Saroj") for failure to abide by the Order of December 12, 2008, of the Board in this proceeding ("Order" or "Board's Order"). This reply is supported by the second declaration of Norbert Stahl ("Second Stahl Dec").

ARGUMENT

A. Registrant's Opposition Is Unsupported and Contradicted by the Record.

Registrant argues in its Opposition that it complied with the Board's Order. However, Registrant did not provide a Proof of Service showing compliance with the Board's Order. Also, counsel for Registrant asked Petitioner on January 8, 2009, to join in a "Stipulated Request for Relief from Order authorizing delivery, in this instance only, via Federal Express." Stahl declaration, submitted with Motion, Ex. C, 3rd para. A Stipulation for Relief from Order suggests lack of compliance.

The repeated failure of Registrant to abide by the rules of due process and serve papers of Petitioner has burdened these proceedings tremendously. The lost-mail tactics of Registrant have prolonged these proceedings and continue to drain the resources of the Board and Petitioner.

Also, there is no end in sight to the disputes about "lost mail." For example, Registrant argues in its Opposition that it served discovery requests on Petitioner. Opposition, at 7. Yet, on April 9, 2008, Petitioner already moved the Board for a protective order (see, docket entry #9, including all meet and confer materials) after counsel for Registrant made allegations of having served discovery requests and since Petitioner never received copies thereof. Even when Petitioner asked multiple times for

copies of any allegedly served discovery requests, no copies were ever provided. See, submissions with Motion for Protective Order of April 9, 2008.

Here, Registrant *again* had ample opportunity to abide by an Order of the Board. The record shows, and Registrant does not dispute this, that the service of discovery materials ordered by the Board in the Order of December 12, 2008, did not happen. Also, Registrant failed to provide a Proof of Service under 37 C.F.R. § 2.119 for timely service pursuant to the Board's Order. Hence, Registrant's contention that it timely served lacks the requisite support and should be rejected, especially in view of the record in this case.

Furthermore, Registrant's contention that its email was too large for successful transmission is untenable because the undersigned regularly receives emails with attachments of 20 to 25 megabytes (Mb) in size (Second Stahl Dec., ¶12), while Registrant's alleged email was only about 12 Mb (Opposition, at 2). In other words, an email about half the size of emails that easily transmit to the email account of the undersigned would transmit without any problems. Moreover, it would have been very easy to break up a large email into smaller emails. Also, counsel for Registrant could have sent the email(s) earlier and ask if they arrived. There is any number of solutions and it is simply incomprehensible that counsel for Registrant would seek resort to none of them.

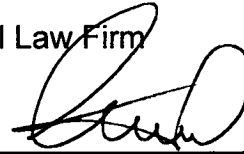
Petitioner therefore requests that its second motion for sanctions be granted and that Registrant's trademarks at issue be canceled.

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Respectfully submitted,

Stahl Law Firm



Date: February 2, 2009

Norbert Stahl, Esq.
Registration No. 44,350

Attorney for Petitioner
LIVE VENTURES INC.

Correspondence Address:

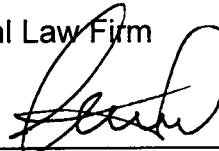
Stahl Law Firm
2 Meadowsweet Lane
San Carlos, CA 94070
(650) 802-8800 (phone)
(650) 802-8484 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITIONER'S REPLY IN SUPPORT OF SECOND MOTION FOR SANCTIONS has been served on Gary L. Eastman, Esq., Attorney for Registrant Saroj International, Inc., by mailing said copy on February 2, 2009, via First Class Mail, postage prepaid, to: Gary L. Eastman, APLC, 707 Broadway Street, Suite 1800, San Diego, California 92101.

Date: February 2, 2009

Stahl Law Firm



Norbert Stahl, Esq.
Registration No. 44,350

Attorney for Petitioner
LIVE VENTURES INC.

Correspondence Address:

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2 Meadowsweet Lane
San Carlos, CA 94070
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CANCELLATION No. 92047661

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Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

**SECOND DECLARATION OF NORBERT STAHL IN SUPPORT OF PETITIONER'S
REPLY IN SUPPORT OF SECOND MOTION FOR SANCTIONS.**

I, Norbert Stahl, declare as follows:

1. I am an attorney licensed to practice in the State of California and registered to practice before the United States Patent and Trademark Office and I am a member of Stahl Law Firm. I represent Petitioner Live Ventures Inc. (Petitioner or "Live Ventures") in Cancellation No. 92047661 and I submit this declaration in support of Petitioner's Reply in Support of Second Motion for Sanctions against Registrant Saroj International, Inc. (Registrant or "Saroj"). I make this declaration based on my personal knowledge and could and would competently testify thereto if called as a witness.

2. My office uses an internet connection with email services that allows me to receive email with attachments of at least about 25 megabytes (Mb). I regularly receive emails in the size range of 20 to 25 Mb, including attachments.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed in San Carlos, California, on February 2, 2009.

By



Norbert Stahl
Registration No. 44,350

Attorney for Petitioner
LIVE VENTURES INC.

Correspondence Address:

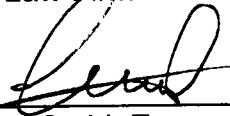
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CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing SECOND DECLARATION OF NORBERT STAHL IN SUPPORT OF PETITIONER'S REPLY IN SUPPORT OF SECOND MOTION FOR SANCTIONS has been served on Gary L. Eastman, Esq., Attorney for Registrant Saroj International, Inc., by mailing said copy on February 2, 2009, via First Class Mail, postage prepaid, to: Gary L. Eastman, APLC, 707 Broadway Street, Suite 1800, San Diego, California 92101.

Date: February 2, 2009

Stahl Law Firm



Norbert Stahl, Esq.
Registration No. 44,350

Attorney for Petitioner
LIVE VENTURES INC.

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